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June 15, 1992

VIA COURIER

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JUN 15 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

Re: Personal Communications Network Services of New York,
Inc.'s Comments in ET Docket 92-9 -- Erratum

Dear Ms. Searcy:

On June 8, 1992, Personal Communications Network Services of New York, Inc. filed comments in response to the Commission's Notice of Proposed Rulemaking in ET Docket No. 92-9. The summary filed with those comments inadvertently contained typographical errors that have been corrected on the attached pages. For the convenience of the Commission, we attach a full copy of the summary, including the corrected pages. Accordingly, please substitute the corrected summary for the summary included in the original filing.

If you have any questions regarding this filing, please call me.

Sincerely,

Shelley L. Spencer
Shelley L. Spencer

Attachment

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SUMMARY

Federal Communications Commission
Office of the Secretary

PCNS-NY, a LOCATE company, has pioneered the use of market-based negotiations as a means to migrate existing users of the 1850-1990 MHz band to higher frequencies or alternative media and free up spectrum for emerging technologies such as PCS. PCNS-NY has already proven, through its unmatched experimental efforts, that the Commission's proposed transition plan can provide spectrum for emerging technologies without compromising the reliability or quality of the communications systems of existing users in the 1850-1990 MHz band. PCNS-NY enthusiastically endorses the Commission's proposed three-step transition plan as an innovative approach to create an emerging technologies band and to protect the communications needs of existing operational fixed microwave users.

PCNS-NY's successful approach to negotiations with existing users in the 1850-1990 MHz band provide a model for marketplace negotiations between future spectrum licensees and existing users. Four separate users who have been approached by PCNS-NY have submitted letters to the FCC declaring their willingness to relocate to higher frequencies under the terms and conditions offered by PCNS-NY. Through individualized negotiations with existing users, PCNS-NY has found that the key to a successful relocation agreement is flexibility. PCNS-NY demonstrates its commitment to providing the existing user with satisfactory

replacement facilities through its commitment to:

- (1) pay the reasonable costs of relocation;
- (2) design a replacement system to meet the existing users needs;
- (3) "prove in" the existing system to prevent disruption to service; and
- (4) ensure equivalent reliability of the new network.

With these four principles in place, PCNS-NY has found that existing users, including local and state government agencies, public safety organizations and utility companies, are receptive to relocation. The experience of PCNS-NY's parent company, LOCATE, in designing, engineering and constructing state-of-the-art microwave networks has provided existing users with confidence in PCNS-NY's relocation proposals that demonstrate expertise in the design of microwave networks.

Each element of the Commission's three part transition plan is critical to the process of market-based negotiations. Without restrictions on new applications for frequencies in the 1850-1990 MHz band and the adherence to a fixed time frame at the end of which existing users will revert to secondary status (preferably three years), new licensees will not be able to successfully negotiate relocation agreements. In addition, modifications of existing facilities should be limited. Both of these elements of the Commission's transition plan have been instrumental in PCNS-NY's ability to initiate relocation negotiations with existing users.

In one-on-one negotiations with PCNS-NY, existing users of the 1850-1990 MHz band have witnessed first hand the potential and significant benefits to be achieved from negotiated relocation. Through market-based negotiations existing users can receive new, upgraded communications facilities at no cost that offer equivalent or improved reliability. In addition, PCS presents a new business opportunity for utilities, railroads and other licensees that can benefit from the potential lease of their rights-of-way and from the early use of PCS.

There is no other viable alternative to market-based negotiations that will facilitate immediate and economically efficient introduction of PCS in the United States. An allocation of government spectrum is unrealistic. Aside from the fact that the process of allocating government spectrum is lengthy and cumbersome, use of government spectrum as an option for relocating existing 2 GHz users would also delay introduction of emerging technologies by complicating the market-based negotiations process. In addition, the availability of government spectrum for emerging technologies such as PCS would not obviate the need for relocation of microwave users.

PCNS-NY urges the Commission to adopt its three step transition plan as proposed. The proposed alternatives to the transition plan are inferior. As proposed by the Commission, the phased-in proposal would not compensate existing users for the cost of relocation. In essence, the phased-in approach would be tantamount to the "band clearing" which the Commission has

attempted to avoid. Co-primary use of the 2 GHz band by new licensees and existing users is untenable since, to date, no sharing techniques have been proven to provide acceptable interference protection. PCNS-NY has been informed uniformly by existing users that they cannot tolerate interference and that, if given a choice between sharing and relocation, they would choose relocation. Allocating the band on a co-primary basis will simply defer the battle for control of the band because ultimately either the new or the existing services would have to be relocated to resolve interference problems. In addition, without a fixed time frame for existing users to go to secondary status, existing users will have an unfair advantage in negotiating relocation agreements and be able to leverage the threat of continued, indefinite occupancy of the band.

As an added measure of flexibility, PCNS-NY alternatively proposes that the Commission initially allocate spectrum for emerging technologies to the top 30 markets as defined by demand for services and frequency congestion. This would create spectrum for new services where there is the greatest demand, initiate the relocation process in the areas of greatest congestion and provide an extended time frame for rural users and users in less congested markets to relocate out of the band.

Expedient action by the Commission to allocate spectrum to PCS is essential to the continued competitiveness of United States equipment providers and telecommunications service providers. The time to act is now. Europe and Japan have

already allocated spectrum to new technologies and put the United States leadership position in the telecommunications industry in jeopardy. Accordingly, PCNS-NY urges the Commission to promptly conclude this proceeding to establish the emerging technologies band and to immediately proceed with a Notice of Proposed Rulemaking on PCS.